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the denial of labor certification was based.

(ii) With respect to a revocation or a debarment determination, the BALCA proceeding may be de novo.

(b) Upon the receipt of a request for review, the Certifying Officer immediately must assemble an indexed Appeal File:

(1) The Appeal File must be in chronological order, must have the index on top followed by the most recent document, and must have consecutively numbered pages. The Appeal File must contain the request for review, the complete application file, and copies of all the written material, such as pertinent parts and pages of surveys and/or reports upon which the denial was based.

(2) The Certifying Officer must send the Appeal File to the Board of Alien Labor Certification Appeals, Office of Administrative Law Judges, 800 K Street, NW., Suite 400–N, Washington, DC 20001–8002.

(3) The Certifying Officer must send a copy of the Appeal File to the employer. The employer may furnish or suggest directly to the Board of Alien Labor Certification Appeals the addition of any documentation that is not in the Appeal File, but that was submitted to DOL before the issuance of the Final Determination. The employer must submit such documentation in writing, and must send a copy to the Associate Solicitor for Employment and Training Legal Services, Office of the Solicitor, U.S. Department of Labor, Washington, DC 20210.

(c) *Debarment Appeal File.* Upon the receipt of a request for review of debarment, the Administrator, Office of Foreign Labor Certification, immediately must assemble an indexed Appeal File:

(1) The Appeal File must be in chronological order, must have the index on top followed by the most recent document, and must have consecutively numbered pages. The Appeal File must contain the request for review, the complete application file(s), and copies of all written materials, such as pertinent parts and pages of surveys and/or reports or documents received from any court, DHS, or the Department of State, upon which the debarment was based.

(2) The Administrator, Office of Foreign Labor Certification, must send the Appeal File to the Board of Alien Labor Certification Appeals, Office of Administrative Law Judges, 800 K St., NW., Suite 400–N, Washington, DC 20001–8002.

(3) The Administrator, Office of Foreign Labor Certification, must send a copy of the Appeal File to the debarred person or entity. The debarred person or entity may furnish or suggest directly to the Board of Alien Labor Certification Appeals the addition of any documentation that is not in the Appeal File. The debarred person or entity must submit such documentation in writing, and must send a copy to the Associate Solicitor for Employment and Training Legal Services, Office of the Solicitor, U.S. Department of Labor, 200 Constitution Ave., NW., Washington, DC 20210.

[69 FR 77386, Dec. 27, 2004, as amended at 72 FR 27945, May 17, 2007]

§ 656.27 Consideration by and decisions of the Board of Alien Labor Certification Appeals.

(a) *Panel designations.* In considering requests for review before it, the Board of Alien Labor Certification Appeals may sit in panels of three members. The Chief Administrative Law Judge may designate any Board of Alien Labor Certification Appeals member to submit proposed findings and recommendations to the Board of Alien Labor Certification Appeals or to any duly designated panel thereof to consider a particular case.

(b) *Briefs and Statements of Position.* In considering the requests for review before it, the Board of Alien Labor Certification Appeals must afford all parties 30 days to submit or decline to submit any appropriate Statement of Position or legal brief. The Certifying Officer is to be represented solely by the Solicitor of Labor or the Solicitor's designated representative.

(c) *Review on the record.* The Board of Alien Labor Certification Appeals must review a denial of labor certification under § 656.24, a revocation of a certification under § 656.32, or an affirmation of a prevailing wage determination under § 656.41 on the basis of the record upon which the decision was made, the

request for review, and any Statements of Position or legal briefs submitted and must:

(1) Affirm the denial of the labor certification, the revocation of certification, or the affirmation of the PWD; or

(2) Direct the Certifying Officer to grant the certification, overrule the revocation of certification, or overrule the affirmation of the PWD; or

(3) Direct that a hearing on the case be held under paragraph (e) of this section.

(d) *Notifications of decisions.* The Board of Alien Labor Certification Appeals must notify the employer, the Certifying Officer, and the Solicitor of Labor of its decision, and must return the record to the Certifying Officer unless the case has been set for hearing under paragraph (e) of this section.

(e) *Hearings*—(1) *Notification of hearing.* If the case has been set for a hearing, the Board of Alien Labor Certification Appeals must notify the employer, the alien, the Certifying Officer, and the Solicitor of Labor of the date, time, and place of the hearing, and that the hearing may be rescheduled upon written request and for good cause shown.

(2) *Hearing procedure.* (i) The "Rules of Practice and Procedure For Administrative Hearings Before the Office of Administrative Law Judges," at 29 CFR part 18, apply to hearings under this paragraph (e).

(ii) For the purposes of this paragraph (e)(2), references in 29 CFR part 18 to: "administrative law judge" mean the Board of Alien Labor Certification Appeals member or the Board of Alien Labor Certification Appeals panel duly designated under § 656.27(a); "Office of Administrative Law Judges" means the Board of Alien Labor Certification Appeals; and "Chief Administrative Law Judge" means the Chief Administrative Law Judge in that official's function of chairing the Board of Alien Labor Certification Appeals.

§ 656.30 Validity of and invalidation of labor certifications.

(a) *Priority date.* (1) The filing date for a Schedule A occupation or sheepherders is the date the application was dated by the Immigration Officer.

(2) The filing date, established under § 656.17(c), of an approved labor certification may be used as a priority date by the Department of Homeland Security and the Department of State, as appropriate.

(b) *Expiration of labor certifications.* For certifications resulting from applications filed under this part and 20 CFR part 656 in effect prior to March 28, 2005, the following applies:

(1) An approved permanent labor certification granted on or after July 16, 2007 expires if not filed in support of a Form I–140 petition with the Department of Homeland Security within 180 calendar days of the date the Department of Labor granted the certification.

(2) An approved permanent labor certification granted before July 16, 2007 expires if not filed in support of a Form I–140 petition with the Department of Homeland Security within 180 calendar days of July 16, 2007.

(c) *Scope of validity.* For certifications resulting from applications filed under this part or 20 CFR part 656 in effect prior to March 28, 2005, the following applies:

(1) A permanent labor certification for a Schedule A occupation or sheepherders is valid only for the occupation set forth on the *Application for Alien Employment Certification* (Form ETA 750) or the *Application for Permanent Employment Certification* (Form ETA 9089) and only for the alien named on the original application, unless a substitution was approved prior to July 16, 2007. The certification is valid throughout the United States unless the certification contains a geographic limitation.

(2) A permanent labor certification involving a specific job offer is valid only for the particular job opportunity, the alien named on the original application (unless a substitution was approved prior to July 16, 2007), and the area of intended employment stated on the *Application for Alien Employment Certification* (Form ETA 750) or the *Application for Permanent Employment Certification* (Form ETA 9089).

(d) *Invalidation of labor certifications.* After issuance, a labor certification